

**VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY
HELP AMERICA VOTE ACT (HAVA) GRANT
PERFORMANCE REPORT**

Fiscal Year 2004

DESIGNATED AGENCY IDENTIFICATION

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VOPA Executive Director

Date

The Virginia Office for Protection and Advocacy ("VOPA")

The Virginia Office for Protection and Advocacy ("VOPA") received its first grant under the Help America Vote Act in the fall of 2003. Since that time, the agency has had significant accomplishments in outreach, education and accessibility monitoring that have advanced the rights of people with disabilities to participate in voting. These accomplishments have also laid a strong foundation for VOPA's future advocacy efforts under HAVA.

OUTREACH AND EDUCATION

Many advocates, families and individuals with disabilities have had the misperception that the polling place accommodations must be permanent and not just be in place on the day of election. Many also misunderstood what a "reasonable" accommodation is. At the other end of the spectrum, some polling places find it difficult to compel or finance permanent modifications. VOPA's educational efforts stressed that HAVA requires 100% compliance with the ADA and Virginia's laws relating to people with disabilities, but only for the day of the elections. We have advised that the state Board of Elections has certain tools available to attempt to compel compliance, and many temporary and permanent measures are available to facilitate compliance, at least on Election Day. VOPA has provided on-going education for the public in this area.

VOPA staff provided legal rights training to both of VOPA's Advisory Councils, the Protection and Advocacy for Individuals with Mental Illness and the Disabilities Advisory Councils. At those trainings, voting rights materials were distributed to the Council members. The trainings were well received and our efforts were supported by the Councils. One Council member, who lives in a retirement community, took the hand-out materials back to her housing complex and questioned the management about residents with disabilities being able to get to the polling places. At the last Council meeting she reported that on Election Day she saw vans from the complex with people with disabilities being taken to the polling places.

VOPA contracted with Virginia Commonwealth University's Mass Communication Department to develop an audio version (CD-ROM) of the Department of Justice's Polling Place Accessibility Guidelines. VOPA then contracted to have this audio incorporated into a fully interactive CD-ROM version of the Department of Justice Guide to Accessible Polling Places. Once completed VOPA made the CD-ROM available nationwide for other Protection and Advocacy entities and advocacy groups to use. It has been provided to every Center for Independent Living in Virginia and to about ten other Protection and Advocacy entities. We have it posted on our web-site, and several other P&As have reported distributing it to their states' Boards of Elections and Registrars. It is seen as being user-friendly and accessible for people with disabilities.

In coordination with the Virginia State Board of Elections and the Department of Rehabilitation Services, VOPA provided training to over 50 representatives of the Centers for Independent Living on the Department of Justice Guide to Accessible Polling Places. VOPA distributed the survey and the CD-ROM at these trainings.

VOPA contracted with the National Alliance for the Mentally Ill, Virginia chapter, to develop two versions of the "Vote Virginia" pamphlet (attached), intended to assist people with disabilities to understand their rights to register and to vote. VOPA distributed the pamphlets through the Arc

of Virginia, through institutional human rights advocates, through Centers for Independent Living, through NAMI, through Community Service Boards, and by posting on our web page.

VOPA posted a direct link to the State Board of Elections website on the VOPA website. VOPA had 15178 for a total number of website hits (not just for HAVA) for FY04.

ADVOCACY AND LEGAL ACTIVITIES

In accordance with the HAVA grant, one of our first actions taken under the grant was to review the State Plan on Voting Access, developed in the summer of 2003. We then arranged to work with the State Board of Elections to monitor their steps taken to implement HAVA. VOPA had several discussions with the State Board of Elections on providing access for people with sensory disabilities.

VOPA reviewed significant numbers of surveys of polling places. Initial "self-assessment" surveys performed in January 2002 by each of the 2277 voter registration offices in Virginia suggested that 12.6% of Virginia's precincts were not compliant with accessibility requirements. As of January 1, 2003, the self-evaluations reported that only 12 precincts out of 2277 were out of compliance. VOPA believes these figures to be inaccurate. Based on independent surveys completed after our training, approximately 50% of sites surveyed are not accessible. With that in mind, and with input and guidance from the Governing Board of Directors, the VOPA Advisory Councils, and public comment, VOPA developed the following objectives for FY04 that address accessibility and polling places:

Goal: People with Disabilities have Equal Access to Government Services

Focus area: Polling Places for People with Disabilities

Objectives:

1. Investigate whether polling places in five (5) cities or counties in the Northern area of Virginia are accessible to people with disabilities. If not, initiate litigation and/or other advocacy to improve access.
2. Obtain and review Virginia's plan on voting access, providing comment if appropriate.

This Focus Area allowed VOPA to review polling places to determine if these locations are accessible for individuals with varying disabilities. If not, VOPA attempted to provide education about what is necessary to make the polling site accessible, and was prepared to proceed with advocacy on behalf of individuals who would be denied access to the polling place if needed.

The objective limiting our activities to Northern Virginia was later broadened to ensure that polling places statewide are accessible. This was accomplished through statewide training efforts. As described above, VOPA collaborated with the Department of Rehabilitation Services and provided trainings for the selected staff of Centers for Independent Living to conduct surveys. VOPA coordinated this training with the Accessibility Coordinator for the Virginia State Board of Elections, to train the surveyors who will be inspecting the polling sites. In the training, VOPA staff attorneys provided overviews of HAVA and the Americans with Disabilities Accessibility Guidelines, and then reviewed the Department of Justice ADA Polling Site Survey tool to explain how the Department of Justice defines "accessible." VOPA also assisted with presenting the survey tool created for use in Virginia, and the equipment used to complete the surveys. Each participant in the training received a survey kit, including the survey form, and the tools needed to check for compliance.

These surveys have been conducted in part by the Centers for Independent Living, and VOPA utilized the information obtained through these surveys to further advocate for accessible polling places and to develop our advocacy strategies for FY05.

Additionally, VOPA sent two letters to the State Board of Elections, advising that we have concerns about access to absentee ballots for people with cognitive disabilities; and advising of our planned poll monitoring project for November, 2004.

In addition, VOPA advocated on behalf of persons with mental illness and other “non physical” disabilities to ensure that they would have the right and opportunity to cast absentee ballots. Virginia’s statute concerning absentee ballots states that if persons’ “physical” disabilities prevent them from voting, they may obtain absentee ballots. By its express terms, this statute appears to exclude persons with mental illness, mental retardation and other “nonphysical” disabilities from obtaining an absentee ballot. VOPA wrote to the State Board of Elections and informed them that, regardless of Virginia’s statute, persons with “nonphysical” disabilities have a right to vote by absentee ballot pursuant to the U.S. Constitution and other state and federal laws. The State Board wrote back confirming that those persons will be given an equal opportunity to vote by absentee ballot.

HISTORY OF THE VIRGINIA PROTECTION AND ADVOCACY SYSTEM

Effective July 16, 2002, VOPA, formerly the Department for the Rights of Virginians with Disabilities, became an independent state agency, with a politically appointed Board of Directors. In February 2003, the Acting Executive Director/Deputy Director accepted another position; one of the Managing Attorneys stepped forward to lead the agency during this transition. In April 2003, a new Executive Director was hired.

Prior to October 1, 2003, VOPA was structured by funding streams. Staff caseloads were assigned based on grants. In October, 2003, the Office was re-aligned to more closely reflect the needs of the VOPA constituencies.

The goals of the re-structuring included:

- Improve our ability to focus on results and outcomes
- Improve quality and timeliness of investigations
- Provide best possible client services
- Be able to respond to changing demands
- Promote staff satisfaction
- Minimize middle management
- Keep paperwork requirements manageable
- Have manageable supervision loads

The agency was organized into three substantive units: 1) Resource Advocacy Unit, responsible for screening requests for services and for coordinating the agency’s outreach efforts; 2) Institutions Unit, responsible for serving clients in facilities and for abuse and neglect investigations; and, 3) Communities Unit, responsible for serving clients living in the community. This structure affords VOPA maximum flexibility to serve clients according to their needs, rather than requiring clients to fit the needs of the agency’s programs, as the previous structure had done.

This new organization structure became effective October 1, 2003.

In February of 2004, the Virginia Office for Protection and Advocacy moved out of a State office building that housed other state agencies and the Governor's Office. This physical move from State government property sent a powerful message to the public that VOPA is an independent State agency and no longer a part of the Executive Branch of State government. The new site offers better accessibility for potential clients, clients and guests.